

**FILED**  
IN CLERK'S OFFICE  
U.S. DISTRICT COURT E.D.N.Y.  
★ AUG 9 - 2016 ★  
**BROOKLYN OFFICE**

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----X  
ANDREW MOORE,

Plaintiff,

-against-

MICHAEL DESPOSITO, OFFICER MOOD, and  
CESAR A. PERALES,

Defendants.  
-----X

**AMON, United States District Judge:**

NOT FOR PUBLICATION  
**MEMORANDUM & ORDER**  
15-CV-4319 (CBA) (LB)

The Court has received the Report and Recommendation (“R&R”) of the Honorable Lois Bloom, United States Magistrate Judge, dated April 19, 2016, recommending that plaintiff Andrew Moore’s claims against New York Secretary of State Cesar A. Perales be dismissed. (See D.E. # 23.) No party has objected to the R&R, and the time for doing so has passed. When deciding whether to adopt a report and recommendation, a district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). To accept those portions of the R&R to which no timely objection has been made, “a district court need only satisfy itself that there is no clear error on the face of the record.” Jarvis v. N. Am. Globex Fund, L.P., 823 F. Supp. 2d 161, 163 (E.D.N.Y. 2011) (internal quotation marks and citation omitted).

The Court has reviewed the R&R and, finding no clear error, adopts in full the recommendation contained in it. Even if this Court were to construe Moore’s pro se complaint broadly to include claims against Perales in both his individual and official capacity, see Weixel v. Bd. of Educ. of the City of N.Y., 287 F.3d 138, 145–46 (2d Cir. 2002), the complaint fails to

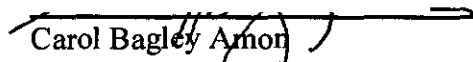
state a claim against Perales in his individual capacity and the Court would lack jurisdiction to consider the official capacity claims.

Accordingly, the Court grants Perales' motion to dismiss. The Clerk of Court is directed to enter judgment accordingly.

SO ORDERED.

Dated: August 8, 2016  
Brooklyn, New York

s/Carol Bagley Amon

  
Carol Bagley Amon  
United States District Judge